



# राजपत्र, हिमाचल प्रदेश

## हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 18 मार्च, 2024 / 28 फाल्गुन, 1945

हिमाचल प्रदेश सरकार

AGRICULTURE DEPARTMENT

NOTIFICATION

*Shimla-2, the 16th March, 2024*

**No. Agr-F(8)-5/2012-L(i).**—In exercise of the powers conferred by sub-section (1) (2) (3) of Section 30 of the Himachal Pradesh Agricultural and Horticulture Produce Marketing

(Development and Regulation) Act, 2005, (Act No.20 of 2005), the Governor, Himachal Pradesh is pleased to constitute the Agricultural Produce Market Committee, Bilaspur, H.P. with immediate effect. The following will be its Ex-officio/non-official members:—

**A. Ex-Officio Members**

- |    |   |               |
|----|---|---------------|
| 1. | Deputy Commissioner, Bilaspur,<br>District Bilaspur, H.P.               | Vice-Chairman |
| 2. | Deputy Director, Agriculture ,<br>Bilaspur , District Bilaspur, H.P.    | Member        |
| 3. | Deputy Director, Horticulture ,<br>Bilaspur, District Bilaspur, H.P.    | Member        |
| 4. | Deputy Director, Animal Husbandry<br>Bilaspur , District Bilaspur, H.P. | Member        |
| 5. | Incharge Krishi Vigyan Kendra<br>Bilaspur , District Bilaspur.          | Member        |
| 6. | Secretary, Market Committee Bilaspur,<br>District Bilaspur.             | Member        |

**B. Non-Official Producer Members**

- |    |  |        |
|----|--|--------|
| 1. | Smt. Seema Chandel, w/o Sh. Vijay Kumar, r/o<br>Village Kahrian, P.O. Bamta, Tehsil Sadar,<br>District Bilaspur.                 | Member |
| 2. | Sh. Maninder Singh Chandel, s/o Sh. Anirudh Singh,<br>r/o Village Bhagatpur, P.O. Talai, Tehsil Jhandutta,<br>District Bilaspur. | Member |
| 3. | Sh. Rakesh Chand, s/o Sh. Nand Lal, r/o<br>V.P.O. Ghandalwin, Tehsil Ghumarwin,<br>District Bilaspur, H.P.                       | Member |
| 4. | Sh. Manoj Kumar, s/o Sh. Thakur Dass r/o<br>Village Tarauntra, P.O. Takrehra, Tehsil Ghumarwin,<br>District Bilaspur, H.P.       | Member |
| 5. | Sh. Rakesh Bhardwaj, s/o Sh. Shiv Ram, r/o Village Seo,<br>P.O. Naswal, Tehsil Ghumarwin, District Bilaspur, H.P.                | Member |
| 6. | Sh. Paramdeep s/o Late Sh. Lala Ram r/o<br>Village Seola, P.O. Jukhala, Tehsil Sadar,<br>District Bilaspur, H.P.                 | Member |
| 7. | Dr. Manoj Kumar Sharma s/o Sh. K.D. Gautam,<br>Village Kandyana, P.O. Berthin, Tehsil Jhandutta,<br>District Bilaspur.           | Member |

- |    |  |        |
|----|--|--------|
| 8. | Sh. Gaurav Sharma s/o Sh. Tilak Raj Sharma,<br>V.P.O. Chandpur, Tehsil Sadar, District Bilaspur. | Member |
| 9. | Sh. Satpal, s/o Sh. Beli Ram,<br>Main Bazar Ghumarwin, Distt. Bilaspur.                          | Member |

**C. Non-Official Trader Member**

- |    |   |        |
|----|---|--------|
| 1. | Sh. Daya Ram Sahota, Prop M/s Natarj Enterprises,<br>Gandhi Chowk Ghumarwin, Distt. Blasapur. | Member |
|----|---|--------|

The above committee shall conduct its business subject to the provisions of the above Act.

**Term of Office**

Every non-official member shall hold the office during the pleasure of State Government. The term of an ex-officio member of the committee shall come to an end, as soon as he ceases to hold the office by virtue of which he was nominated.

The Committee shall elect from amongst its members a Chairman.

The non-official members shall be entitled to TA/DA as per Government rules.

By order,

C. PAULRASU,  
Secretary (Agriculture).

**CO-OPERATION DEPARTMENT**

**NOTIFICATION**

*Shimla-2, the 13th March, 2024*

**No. Cop-Boo1/2/2023-Co-op HP Sectt.**—The Governor of Himachal Pradesh is pleased to order to upgrade six posts of Co-operative Inspectors Pay matrix (38100-120400) level 10 to the level of Distt. Inspectors/Distt Audit officers Pay matrix (46000-146500) level-13 in Co-operation Department *i.e.* one post each of DI/DAO for Eastern Division Shimla, Central Division Mandi, Western Division Dharamshala, ARCS Circles Palampur, Nurpur & Jubbal and to abolish 12 posts of Cooperative Inspectors in lieu of upgradation of these six posts of Cooperative Inspector to the level of DI/DAOs *i.e.* one post each from Eastern Division Shimla, Central Division Mandi, Western Division Dharamshala, ARCS Circles Palampur, Nurpur & Jubbal and six others posts from institutions where there is less necessity of post of Cooperative Inspectors.

The said newly upgraded six posts of DIs/DAOs shall be filled up as per provisions contained in R & P Rules.

This issues with the prior approval of Finance Department obtained *vide* UO letter No. Fin-F-B001/54/2023-156128 dated 23-02-2024.

By orders,  
Sd/-  
(C. PAULRASU),  
Secretary (Co-operation).

## विधि विभाग

### अधिसूचना

शिमला-2, 12 मार्च, 2024

संख्या: एल.एल.आर.-डी.(6)-1 / 2024-लेज.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 200 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए हिमाचल प्रदेश विनियोग विधेयक, 2024 (2024 का विधेयक संख्यांक 1) को दिनांक 07-03-2024 को अनुमोदित कर दिया है तथा अनुच्छेद 348 के खण्ड (3) के अधीन, विधेयक के अंग्रेजी पाठ को राजपत्र, हिमाचल प्रदेश में प्रकाशित करने के लिए प्राधिकृत कर दिया है। अतः उपरोक्त विधेयक को वर्ष 2024 के अधिनियम संख्यांक 5 के रूप में अंग्रेजी प्राधिकृत पाठ सहित राजपत्र (ई-गजट) हिमाचल प्रदेश में प्रकाशित किया जाता है।

आदेश द्वारा,  
शरद कुमार लगवाल,  
सचिव (विधि)।

## हिमाचल प्रदेश विनियोग अधिनियम, 2024

### धाराओं का क्रम

धारा :

1. संक्षिप्त नाम ।
2. हिमाचल प्रदेश राज्य की संचित निधि में से वित्तीय वर्ष 2023-2024 के लिए ₹ 1,03,07,59,08,252 की और राशि जारी करना ।
3. विनियोग ।  
अनुसूची ।

**हिमाचल प्रदेश विनियोग अधिनियम, 2024**

(माननीय राज्यपाल महोदय द्वारा तारीख 7 मार्च, 2024 को यथाअनुमोदित)

31 मार्च, 2024 को समाप्त होने वाले वित्तीय वर्ष के लिए हिमाचल प्रदेश राज्य की संचित निधि में से सेवाओं के लिए कतिपय और धनराशियों के संदाय को प्राधिकृत करने और उनका विनियोग करने के लिए अधिनियम।

भारत गणराज्य के पचहत्तरवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :-

1. संक्षिप्त नाम.—इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश विनियोग अधिनियम, 2024 है।

2. हिमाचल प्रदेश राज्य की संचित निधि में से वित्तीय वर्ष 2023-2024 के लिए ₹ 1,03,07,59,08,252 की और राशि जारी करना.—हिमाचल प्रदेश राज्य की संचित निधि में से अनुसूची के तृतीय स्तम्भ में विनिर्दिष्ट से अनधिक धनराशियां, जिनका योग केवल ₹ 1,03,07,59,08,252 (दस हजार तीन सौ सात करोड़ उनसठ लाख आठ हजार दो सौ बावन रुपए) है, संदत्त और उपयोजित की जाएं, जिनका वित्तीय वर्ष 2023-2024 की अवधि में अनुसूची के द्वितीय स्तम्भ में विनिर्दिष्ट सेवाओं और प्रयोजनों से सम्बन्धित विभिन्न प्रभारों को चुकाने के लिए उपयोग किया जाएगा।

3. विनियोग.—इस अधिनियम द्वारा हिमाचल प्रदेश राज्य की संचित निधि में से संदत्त और उपयोजित किए जाने के लिए प्राधिकृत धनराशियों का इस अधिनियम की धारा 2 के अधीन विनिर्दिष्ट अवधि से सम्बन्धित अनुसूची में अभिव्यक्त सेवाओं और प्रयोजनों के लिए विनियोजन किया जाएगा।

**अनुसूची**

(धाराएं 2 और 3 देखें)

मांग संख्या	सेवाएं और प्रयोजन	निम्नलिखित राशियों से अनधिक		
		विधान सभा द्वारा दत्तमत ₹	संचित निधि पर प्रभारित ₹	कुल ₹
1	2	3	4	5
01	विधान सभा (राजस्व)	6,37,74,000	15,00,000	6,52,74,000
	(पूँजीगत)	2,62,00,000	—	2,62,00,000
02	राज्यपाल तथा मन्त्री परिषद् (राजस्व)	6,38,97,000	22,11,824	6,61,08,824
03	न्याय प्रशासन (राजस्व)	18,64,74,598	9,46,70,317	28,11,44,915
	(पूँजीगत)	6,37,00,000	—	6,37,00,000

04	सामान्य प्रशासन	(राजस्व)	12,78,93,668	1,60,38,290	14,39,31,958
		(पूँजीगत)	35,82,33,000	—	35,82,33,000
05	भू-राजस्व और जिला प्रशासन	(राजस्व)	17,42,95,50,865	2,35,000	17,42,97,85,865
		(पूँजीगत)	46,46,95,000	—	46,46,95,000
06	आबकारी और कराधान	(राजस्व)	20,06,59,719	—	20,06,59,719
07	पुलिस और सम्बद्ध संगठन	(राजस्व)	56,78,26,632	97,51,458	57,75,78,090
		(पूँजीगत)	30,74,05,000	—	30,74,05,000
08	शिक्षा	(राजस्व)	1,64,06,11,109	2,68,87,155	1,66,74,98,264
		(पूँजीगत)	12,74,00,000	—	12,74,00,000
09	स्वास्थ्य और परिवार कल्याण	(राजस्व)	1,93,95,05,483	—	1,93,95,05,483
		(पूँजीगत)	1,38,89,10,072	—	1,38,89,10,072
10	लोक निर्माण—सड़क, पुल तथा भवन	(राजस्व)	1,000	90,96,451	90,97,451
		(पूँजीगत)	7,75,89,24,000	2,40,66,000	7,78,29,90,000
11	कृषि	(राजस्व)	7,64,29,717	19,47,341	7,83,77,058
12	उद्यान	(राजस्व)	74,60,13,776	—	74,60,13,776
		(पूँजीगत)	7,00,00,000	—	7,00,00,000
13	सिंचाई, जलापूर्ति एवं सफाई	(राजस्व)	1,63,27,70,600	57,21,849	1,63,84,92,449
		(पूँजीगत)	5,71,10,91,000	9,14,31,088	5,80,25,22,088
14	पशुपालन, दुग्ध विकास एवं मत्स्य	(राजस्व)	6,89,15,000	—	6,89,15,000
		(पूँजीगत)	54,21,000	—	54,21,000
16	वन और वन्य जीवन	(राजस्व)	57,35,98,700	1,50,000	57,37,48,700
17	निर्वाचन	(राजस्व)	38,44,60,146	—	38,44,60,146
18	उद्योग, खनिज, आपूर्ति और सूचना प्रौद्योगिकी	(राजस्व)	52,98,86,706	—	52,98,86,706
19	सामाजिक न्याय एवं अधिकारिता	(राजस्व)	46,26,68,506	87,832	46,27,56,338
		(पूँजीगत)	2,20,62,000	—	2,20,62,000
20	ग्रामीण विकास	(राजस्व)	67,94,28,744	—	67,94,28,744
21	सहकारिता	(राजस्व)	6,66,46,000	—	6,66,46,000
		(पूँजीगत)	15,10,000	—	15,10,000

22	खाद्य और नागरिक आपूर्ति	(राजस्व)	36,44,91,080	—	36,44,91,080
23	विद्युत विकास	(राजस्व)	4,87,45,65,000	42,50,40,000	5,29,96,05,000
		(पूँजीगत)	40,48,19,000	—	40,48,19,000
24	मुद्रण एवं लेखन सामग्री	(राजस्व)	5,42,03,377	—	5,42,03,377
25	सड़क और जल परिवहन	(राजस्व)	2,85,96,53,908	—	2,85,96,53,908
		(पूँजीगत)	1,41,51,27,000	3,43,01,000	1,44,94,28,000
26	पर्यटन और नागर विमानन	(राजस्व)	4,60,17,410	—	4,60,17,410
		(पूँजीगत)	5,99,00,000	—	5,99,00,000
27	श्रम, रोजगार और प्रशिक्षण	(राजस्व)	43,62,78,321	2,00,000	43,64,78,321
		(पूँजीगत)	27,61,12,000	—	27,61,12,000
28	शहरी विकास, नगर एवं ग्राम योजना तथा आवास	(राजस्व)	3,39,08,46,800	—	3,39,08,46,800
		(पूँजीगत)	35,47,46,000	37,08,705	35,84,54,705
29	वित्त	(राजस्व)	6,35,29,29,770	97,55,49,528	7,32,84,79,298
		(पूँजीगत)	2,49,63,449	33,69,98,26,000	33,72,47,89,449
30	विविध सामान्य सेवाएं	(राजस्व)	8,76,89,886	—	8,76,89,886
		(पूँजीगत)	9,43,26,000	—	9,43,26,000
31	जनजातीय क्षेत्र विकास कार्यक्रम	(राजस्व)	40,24,49,108	54,07,584	40,78,56,692
		(पूँजीगत)	7,000	—	7,000
32	अनुसूचित जाति विकास कार्यक्रम	(राजस्व)	2,19,23,43,601	—	2,19,23,43,601
		(पूँजीगत)	21,00,49,079	—	21,00,49,079
	जोड़	(राजस्व)	48,50,24,80,230	1,57,44,94,629	50,07,69,74,859
		(पूँजीगत)	19,14,56,00,600	33,85,33,32,793	52,99,89,33,393
	कुल जोड़		67,64,80,80,830	35,42,78,27,422	1,03,07,59,08,252

## AUTHORITATIVE ENGLISH TEXT

## THE HIMACHAL PRADESH APPROPRIATION ACT, 2024

## ARRANGEMENT OF SECTIONS

## Sections:

1. Short title.
2. Issue of a further sum of ₹ 1,03,07,59,08,252 out of the Consolidated Fund of the State of Himachal Pradesh for the financial year 2023-2024.
3. Appropriation.

## THE SCHEDULE.

THE HIMACHAL PRADESH APPROPRIATION ACT, 2024

(AS ASSENTED TO BY THE GOVERNOR ON 7TH MARCH, 2024)

AN

ACT

*to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Himachal Pradesh for the services for the financial year ending on 31st day of March, 2024.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Seventy-fifth Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Himachal Pradesh Appropriation Act, 2024.

**2. Issue of a further sum of ₹ 1,03,07,59,08,252 out of the Consolidated Fund of the State of Himachal Pradesh for the financial year 2023-2024.**—From and out of the Consolidated Fund of the State of Himachal Pradesh, there may be paid and applied sums not exceeding those specified in column (3) of THE SCHEDULE amounting in the aggregate to a sum of ₹1,03,07,59,08,252 (Rupees ten thousand three hundred seven crore fifty nine lakh eight thousand two hundred fifty two) only towards defraying the several charges which will come in course of payment during the financial year 2023-2024 in respect of the services and purposes specified in column (2) of THE SCHEDULE.

**3. Appropriation.**—The sums authorized to be paid and applied from and out of the Consolidated Fund of the State of Himachal Pradesh by this Act shall be further appropriated for the services and purposes expressed in THE SCHEDULE in relation to the period specified under section 2 of this Act.

THE SCHEDULE

(See Sections 2 and 3)

Demand No.	Services and purposes		Sums not exceeding		
			Voted by the Legislative Assembly in ₹	Charged on the Consolidated Fund in ₹	Total in ₹
1	2		3	4	5
01	Vidhan Sabha	(Revenue)	6,37,74,000	15,00,000	6,52,74,000
		(Capital)	2,62,00,000	-	2,62,00,000
02	Governor and Council of Ministers	(Revenue)	6,38,97,000	22,11,824	6,61,08,824



03	Administration of Justice	(Revenue) (Capital)	18,64,74,598 6,37,00,000	9,46,70,317 -	28,11,44,915 6,37,00,000
04	General Administration	(Revenue) (Capital)	12,78,93,668 35,82,33,000	1,60,38,290 -	14,39,31,958 35,82,33,000
05	Land Revenue and District Administration	(Revenue) (Capital)	17,42,95,50,865 46,46,95,000	2,35,000 -	17,42,97,85,865 46,46,95,000
06	Excise and Taxation	(Revenue)	20,06,59,719	-	20,06,59,719
07	Police and Allied Organisations	(Revenue) (Capital)	56,78,26,632 30,74,05,000	97,51,458 -	57,75,78,090 30,74,05,000
08	Education	(Revenue) (Capital)	1,64,06,11,109 12,74,00,000	2,68,87,155 -	1,66,74,98,264 12,74,00,000
09	Health and Family Welfare	(Revenue) (Capital)	1,93,95,05,483 1,38,89,10,072	- -	1,93,95,05,483 1,38,89,10,072
10	Public Works- Roads, Bridges and Buildings	(Revenue) (Capital)	1,000 7,75,89,24,000	90,96,451 2,40,66,000	90,97,451 7,78,29,90,000
11	Agriculture	(Revenue)	7,64,29,717	19,47,341	7,83,77,058
12	Horticulture	(Revenue) (Capital)	74,60,13,776 7,00,00,000	- -	74,60,13,776 7,00,00,000
13	Irrigation, Water Supply and Sanitation	(Revenue) (Capital)	1,63,27,70,600 5,71,10,91,000	57,21,849 9,14,31,088	1,63,84,92,449 5,80,25,22,088
14	Animal Husbandry, Dairy Development and Fisheries	(Revenue) (Capital)	6,89,15,000 54,21,000	- -	6,89,15,000 54,21,000
16	Forest and Wild Life	(Revenue)	57,35,98,700	1,50,000	57,37,48,700
17	Election	(Revenue)	38,44,60,146	-	38,44,60,146
18	Industries, Minerals, Supplies and Information Technology	(Revenue)	52,98,86,706	-	52,98,86,706

19	Social Justice and Empowerment	(Revenue) (Capital)	46,26,68,506 2,20,62,000	87,832 -	46,27,56,338 2,20,62,000
20	Rural Development	(Revenue)	67,94,28,744	-	67,94,28,744
21	Co-operation	(Revenue) (Capital)	6,66,46,000 15,10,000	- -	6,66,46,000 15,10,000
22	Food and Civil Supplies	(Revenue)	36,44,91,080	-	36,44,91,080
23	Power Development	(Revenue) (Capital)	4,87,45,65,000 40,48,19,000	42,50,40,000 -	5,29,96,05,000 40,48,19,000
24	Printing and Stationery	(Revenue)	5,42,03,377	-	5,42,03,377
25	Road and Water Transport	(Revenue) (Capital)	2,85,96,53,908 1,41,51,27,000	- 3,43,01,000	2,85,96,53,908 1,44,94,28,000
26	Tourism and Civil Aviation	(Revenue) (Capital)	4,60,17,410 5,99,00,000	- -	4,60,17,410 5,99,00,000
27	Labour, Employment and Training	(Revenue) (Capital)	43,62,78,321 27,61,12,000	2,00,000 -	43,64,78,321 27,61,12,000
28	Urban Development, Town and Country Planning and Housing	(Revenue) (Capital)	3,39,08,46,800 35,47,46,000	- 37,08,705	3,39,08,46,800 35,84,54,705
29	Finance	(Revenue) (Capital)	6,35,29,29,770 2,49,63,449	97,55,49,528 33,69,98,26,000	7,32,84,79,298 33,72,47,89,449
30	Miscellaneous General Services	(Revenue) (Capital)	8,76,89,886 9,43,26,000	- -	8,76,89,886 9,43,26,000
31	Tribal Area Development Programme	(Revenue) (Capital)	40,24,49,108 7,000	54,07,584 -	40,78,56,692 7,000

32	Scheduled Castes Development Programme	(Revenue) (Capital)	2,19,23,43,601 21,00,49,079	- -	2,19,23,43,601 21,00,49,079
	<b>Total</b>	<b>(Revenue)</b>	<b>48,50,24,80,230</b>	<b>1,57,44,94,629</b>	<b>50,07,69,74,859</b>
		<b>(Capital)</b>	<b>19,14,56,00,600</b>	<b>33,85,33,32,793</b>	<b>52,99,89,33,393</b>
	<b>Grand Total</b>		<b>67,64,80,80,830</b>	<b>35,42,78,27,422</b>	<b>1,03,07,59,08,252</b>

## LABOUR AND EMPLOYMENT DEPARTMENT

### NOTIFICATION

*Dated, the 29th February, 2024*

**No: LEP-A006/07/2021-LEP.**—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor, Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Judge, Labour Court, Dharamshala on the website of the Printing & Stationery Department, Himachal Pradesh *i.e.* “e-Gazette” :—

Sl. No.	Case No	Petitioner	Respondent	Date of Award/Order
1.	Ref. 268/10	Smt. Shanti Devi	D.F.O Karsog, Mandi & other	26.09.2023
2.	Ref. 34/22	Sh. Sanjiv Kumar	M/S Kuldip Chand & Sons, Mandi	28.09.2023
3.	Ref. 78/18	Sh. Ved Ram	Registrar Dr. Y.S. Parmar Univ.	29.09.2023

By order,

Dr. ABHISHEK JAIN (IAS),  
Secretary (Lab. & Emp.).

**IN THE COURT OF NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 268/2010

Date of Institution : 18.11.2010

Date of Decision : 26.9.2023

Smt. Shanti Devi w/o Shri Govind Ram, r/o Village Jagouti, P.O. Karsog, District Mandi, H.P. *Petitioner.*

*Versus*

1. The Divisional Forest Officer, Forest Division Karsog, District Mandi, H.P.
2. DFO Working Plan Division Karsog at Sunder Nagar, District Mandi, H.P.
3. DFO Karsog, Tehsil Karsog, District Mandi, H.P. *Respondents.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the petitioner : Sh. Vipul Bhardwaj, Ld. Adv.

For the respondent(s) : Sh. Anil Sharma, Ld. Dy. D.A.

**AWARD**

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether verbal termination of the services of Smt. Shanti Devi w/o Shri Govind Ram Part Time Sweeper by the Divisional Forest Officer, Forest Division, Karsog, District Mandi, H.P. w.e.f. 01-04-2007 without serving charge sheet, without holding enquiry and without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what back wages, service benefits and relief the above named worker is entitled to?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that she was engaged as parttime sweeper by the respondent No. 2 in October, 1999 and she worked as such till 31.3.2007 when her services were terminated orally without assigning any reason and affording an opportunity of being heard to her despite of the fact that she had worked for more than 240 days in each calendar year. She made repeated requests to the respondent No. 3 to re-engage her and the respondent No. 3 recommended her case to Conservator of Forest Mandi, but she was not re-engaged. She had served the respondent department for more than seven years. She moved application to Labour Officer, who tried conciliation, but to no avail and therefore reference was made to this court. The respondent department has wrongly, illegally and arbitrarily terminated her services. No Notice was served upon her. Other workers/employees of the respondent no. 2 were adjusted with respondent no. 3 and only her services were terminated. There was sufficient work available with the department. Her services were terminated just to defeat her claim of seniority. Her work and conduct was above board and there was no complaint against her and her juniors are still working in the Division and termination of her services has been ordered by adopting pick and choose method and ignoring the principle of “last come first go”. Hence the respondents be directed to reinstate her with all benefits of seniority, regularization etc. Hence this petition.

4. The petition is resisted by the respondents by filing reply taking preliminary objections qua maintainability, misrepresentation and concealment of material facts and delay and laches. On merits, it has been admitted that the petitioner was engaged as parttime sweeper by the

respondent No. 2. It has been averred that the petitioner was engaged as part time sweeper for four hours daily for sweeping and cleaning the Range Office (Working Plan) at Karsog from Oct,1999 to March,2007 as per mandays chart. Due to completion of the field work of the Working Plan, the Range Office(Working Plan) was shifted from Karsog to Sunder Nagar and accommodation was vacated and handed over to DFO Territorial Karsog and as such there was no other option but to disengage the services of the petitioner as her services were no more required. The Working Plan Division is not a permanent establishment of the Forest Department and the same is closed as and when the work is completed. Generally working plan operation continues in an area for 2-3 years and accordingly casual workers are engaged and the workers so engaged under the working plan/scheme are apprised that their service are co-terminus with the working plan. The petitioner was also duly apprised about her service conditions and availability of work and after consenting to the same, she was engaged as part time sweeper. The working plan operation at Karsog was started in 1999 and closed in the year 2007. After closure of the Working Plan operation at Karsog no work was available to continue the services of the petitioner as such she was disengaged. The services of the petitioner were not taken by the respondent No. 3. The regular staff deputed on Working Plan duty has been posted in other Divisions and as such question to retain juniors to the petitioner did not arise. It has been denied that they had violated the principle of 'last come first go'. After denying other allegations, it has been prayed that the petition be dismissed .

5. On the pleadings of the parties, following issues were framed on 12.01.2012:—

1. Whether the disengagement of the petitioner *w.e.f.* 1.4.2007 is violative the provisions of Sections 25-F, 25-G and 25-H of the I.D. Act, as alleged. If so, what relief petitioner is entitled to? ... OPP.
2. Whether the reference is not maintainable, as alleged. If so, its effect? ... OPR.
3. Whether the reference is hit by the vice of delay and laches, as alleged. If so, its effect? ... OPR.
4. Relief.

6. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and also examined Shri Chet Ram as PW2 and closed the evidence.

7. On the other hand the respondents have examined Shri Vinod Kumar Aggarwal, Divisional Forest Officer, Karsog as RW1 and Shri Gopal, Deputy Range Officer, office of the DFO Karsog, as RW2 and closed the evidence.

8. After appreciation of the pleadings as well as evidence led by both the parties, this court vide Award dated 3.8.2013 has held that the services of petitioner were never engaged by the Divisional Forest Officer, Forest Division, Karsog, therefore, the question of termination of her services in a wrongful manner by the latter does not arise and no relationship of employer and employee exists between the parties to the industrial dispute i.e. the petitioner and the Divisional Forest Officer, Forest Division Karsog and therefore the claim petition is not maintainable against the Divisional Forest Officer, Forest Division Karsog and accordingly dismissed the claim petition being not maintainable.

9. The petitioner challenged the Award passed by this Court before the Hon'ble High Court and Hon'ble High Court vide judgment dated 26.6.2023 passed in CWP No. 675 of 2014 held that the petitioner admittedly engaged by Divisional Forest Officer, Working Plan Division, Karsog at Sundernagar, District Mandi and in the claim petition preferred by petitioner and

response filed thereto details of employer have been given and therefore it was incumbent upon to this court to take notice of details of employer mentioned in claim petition and decide the matter on merits and it appears that at the time of making reference ministerial mistake has been committed by the authority acting on behalf of the Government at the time of referring the matter to the court. But no such objection was ever put-forth by the respondents to reject the reference petition, rather in view of admitted facts, respondents have contested the claim of workman/petitioner on merit and both parties have led the evidence which indicates that parties are in agreement with respect to initial engagement of petitioner by Divisional Forest Officer, Working Plan Division, Karsog at Sundernagar, District Mandi and consequently set aside the Award passed by this court and remanded the case to this court for deciding afresh on the basis of pleadings and evidence.

10. I have heard the Learned Counsel for the petitioner as well as learned Dy. D.A. for the respondents and gone through the case file carefully.

11. For the reasons to be recorded hereinafter, the findings on the above issues are as under:—

Issue No. 1	:	Partly, Yes
Issue No. 2	:	No
Issue No. 3	:	No
Relief (Issue No.4)	:	Petition is partly allowed per operative part of the Award.

### REASONS FOR FINDINGS

Issue No. 1

12. The petitioner has asserted that she was engaged as parttime sweeper by the respondent No. 2 in October, 1999 and worked as such upto 31.3.2007 when her services were orally terminated by the respondent No. 2 without assigning any reason and giving any opportunity of being heard to her whereas she had worked for more than 240 days in each calendar year. No notice was served upon her before terminating her services and other workers/employees of the respondent No. 2 were adjusted by the respondent No. 3 and that sufficient work was available with the respondent department and her services were terminated to defeat her claim whereas the workers junior to her are still working in the Division. The respondents thus have terminated her services by adopting pick and choose method and ignoring the principle of “last come first go”.

13. The respondents on the other hand have not denied the relationship of employer and employee between the petitioner and respondent No. 2. They have admitted that petitioner was engaged as part-time sweeper for four hours daily by the respondent No. 2 for sweeping and cleaning of Range Office (Working Plan) at Karsog from October, 1999 till March, 2007 and that after completion of field works of Working Plan, the office of Range Officer (Working Plan) was shifted from Karsog to Sundernagar and the accommodation was vacated and handed over to DFO Territorial Karsog and as such the services of the petitioner were terminated. It has been claimed that the Working Plan Division is not a permanent establishment of the Forest Department and the same is closed when the work is completed and that the petitioner was duly apprised about her service conditions and availability of work and she was engaged as parttime sweeper with her consent. The working plan operation at Karsog was started in 1999 and closed in the year 2007. After closure of the Working Plan operation at Karsog no work was available to continue the services of the petitioner as such she was disengaged. The services of the petitioner were not taken by the respondent No. 3. The regular staff deputed on Working Plan duty has been posted in other Divisions and as such question to retain juniors to the petitioner did not arise. It has been denied

that they had violated the principle of 'last come first go'. It has been prayed that the petition be dismissed .

14. Thus, it is evident that the relationship of employer and employee between the petitioner and respondent No. 2 has been admitted by the respondents and they have claimed that the petitioner was engaged as parttime sweeper for four hours daily by the respondent No. 2 for sweeping and cleaning of Range Office (Working Plan) at, Karsog from year 1999 upto March, 2007. The respondents have produced and proved the mandays chart Ext.RW1/A of the petitioner on record and the petitioner herself had also produced mandays chart with working hours Ext.PW1/B on record. Perusal of both the mandays chart would show that the petitioner had worked for 87 days in the year 1999 and thereafter 366 days in 2000, 365 days in the year 2001, 365 days in the year 2002 , 365 days in the year 2003, 366 days in the year 2004, 365 day in the years 2005, 365 days in the year 2006 and 90 days in the year 2007 before her termination on 31.3.2007 which clearly goes to show that the petitioner had worked for more than 240 days each calendar year before her termination on 31.3.2007.

15. The petitioner, admittedly, was engaged as parttime sweeper. The Hon'ble Supreme Court in **Divisional Manager New India Assurance Vs. A. Sankaralingam AIR 2009 SC 309** has held that a part time workman would fall within the definition of 'workman' under section 2(s) of the I.D. Act and would be entitled to the benefit of continuous service under section 25 B and the benefit of section 25 F the I.D.Act'.

16. This judgment was followed by the Hon'ble High Court in **Block Development Officer, Pragpur Tehsil Dehra, District Kangra, H.P. Vs. Raj Kumar s/o Amar Nath reported in 2012 Law Suit (H.P.) 1011** in which Hon'ble High Court has held as under:

[3] The main contention raised by Mr. K.B. Khajuria, learned counsel for the petitioner, is that since the petitioner is a part time worker he could not get the protection of Section 25F. This argument cannot be accepted in view of law laid down by Apex Court in Divisional Manager, New India Assurance Co. Ltd. v. A. Sankaranlingam, 2009 AIR(SC) 309, wherein, after referring to the judgments of three Judge Benches of the Apex Court in Silver Jubilee Tailoring House & Ors. vs. Chief Inspector of Shops & Establishments & Anr, 1974 AIR(SC) 37 and Shri Birdichand Sharma vs. First Civil Judge, Nagpur & Ors, 1961 AIR(SC) 644, the Apex Court held as follows:—

"12. It will be seen from a perusal of the aforequoted passages that the observations made therein clearly suggest that a workman employed on a parttime basis but under the control and supervision of an employer is a workman in term of Section 2(s) of the Act, and is entitled to claim the protection of Section 25F thereof, should the need so arise. The fact that the workman was working under the control and supervision of the appellant employer is admitted on all sides.

16. The question as to whether a parttime workman would be covered within the definition in Section 2 (s) of the Act and whether he would be entitled to the benefit of continuous service under section 25B and the benefit of Section 25F, is answered in favour of the workman-respondent. The appeal is accordingly dismissed."

17. Hence in view of laws laid down by Hon'ble Supreme Court and Hon'ble High Court in abovesaid cases, the petitioner falls within the definition of 'workman' under section 2(s) of the I.D. Act and since she had worked continuously with the respondent No.2 w.e.f. October 1999 till her termination on 31.3.2007, she is entitled to the benefit of continuous service under section 25 B and the benefit of section 25 F of 'the I.D. Act'.

18. Now the question which arises for adjudication is whether or not the respondents have terminated the services of the petitioner in contravention of the provisions of Section 25-F of the I.D.Act.

19. The petitioner Shanti Devi appeared as PW2 and has filed affidavit Ext.PW2/A in her examination-in-chief wherein she categorically has stated that her services were terminated by the respondent on 31.3.2007 without assigning any reason and that no opportunity of being heard was given to her whereas she had worked for more than 240 days in each calendar year and have got the right of re-engagement and regularization. She had made request to respondent No.3 to re-engage her and her case was sent to Conservator of Forests Mandi but nothing was done. Her services were terminated illegally. No notice was served upon her and that other similarly situated workmen working with the respondent No. 2 have been adjusted with the respondent No. 3. She has been cross-examined at length but despite her lengthy cross-examination she has maintained her stand. She however has admitted that office of Range Officer Working Plan Karsog, where she was working, was closed in the year 2007 and added that the office was shifted. She has admitted Division of Working Plan was at Sundernagar and after closing of the office, the entire record from Karsog was transferred to Sundernagar. She has also admitted that she alone was appointed as safai karamchari in the office and no other safai karamchari was adjusted by the respondents.

20. Chet Ram PW2 was engaged as part-time worker in DFO office Karsog at the relevant time. He has stated that Shanti Devi worked as a part-time worker in Working Plan Karsog from 1999 to 2007 and when the work of the Working Plan Division Karsog was completed, the staff including daily wagers were shifted to Mandi and Sundernagar. No notice was given to the petitioner. Part-time worker Kamla Devi, who was working in Sundernagar Working Plan, was converted to daily wage worker. In his cross-examination he has also admitted that the Working Plan Karsog has been closed.

21. On the other hand, the respondents have examined Divisional Forest Officer Vinod Kumar as RW1. He has stated that he was posted as DFO Karsog in May, 2012. The petitioner was engaged as part-time sweeper in Range Office Karsog under Working Plan and she worked from October 1999 to March, 2007. The mandays chart is Ext.RW1/A and the letter on the basis of which Working Plan was started at Karsog Division is Ext.RW1/B and the letter whereby the work was closed is Ext.RW1/C. The field work of Working Plan was completed in the year 2007 and as such office of Range Officer Karsog was closed. Range Office was working in two rooms which were handed over to them and no work for petitioner was left in the office as one separate part-time sweeper was posted in their office, who has now been converted to daily wager. The maximum staff for Working Plan is deputed from the forest department and the workers for temporary and field work are engaged for short term after apprising them that after completion of the work of working plan their services would be terminated. Kamla Devi was engaged as part-time sweeper in working plan Division Sundernagar in August 1998. She was senior to the petitioner and the services of the petitioner were terminated after completion of work, therefore, she is not entitled to any compensation or re-engagement. In his cross-examination he has admitted that daily wage workers were also employed in Working Plan Division Karsog. He has denied that daily wage workers were shifted to Mandi and Karsog. He has admitted that the daily wage draftsmen were transferred to Mandi. He did not know that the services of any other daily wage worker were terminated. He has admitted that Kamla Devi was engaged as part-time sweeper in the Working Plan Division Sundernagar. He has admitted that Kamla Devi was converted to daily wage worker on 31.3.2009 vide notification Ext.P1. He has admitted that two employees of the Working Plan Division Karsog were converted to daily wage workers vide Ext.P1 and added that Working Plan Division Karsog at Sunder Nagar and Working Plan Division Sundernagar were separate Divisions.



22. The respondents have also examined Gopal, posted as Dy. Range Officer, in DFO office Karsog as RW2. He has proved the copies of vouchers Ex.R-1 to Ex.R-64 of payment made to Kamla Devi from July, 2002 to Feb., 2009 when she was posted in the office of DFO Working Plan Division Karsog. In his cross-examination he admitted that Kamla Devi was working in Working Plan Division Karsog at Sundernagar and her services have now been regularized in the office of DFO Sundernagar. Working Plan Division Sundernagar and Working Plan Division Karsog were the same.

23. It is evident from the resume of evidence of both the parties discussed supra that the respondents have neither issued notice to the petitioner nor paid wages for the period of notice in lieu of such notice to her before terminating her services on 31.3.2007. Vinod Kumar Aggarwal (RW1) has stated that since the work of the Working Plan Division at Karsog was completed and office was closed, therefore, the services of the petitioner were terminated and as such she is not entitled to any compensation or re-engagement which in turn proves on record that the respondents have not even paid retrenchment compensation to the petitioner. Since the petitioner was in continuous service of the respondents from the last more than seven years before termination of her services, the respondents, as per the provisions of Section 25 F of I.D. Act, were required to serve one month's notice in writing upon the petitioner before terminating her service or pay wages for the period of notice and also retrenchment compensation to her, but they neither served notice nor paid wages for the period of notice and also retrenchment compensation to her, therefore, it is established on record that the services of the petitioner were terminated by the respondents in contravention of the provisions of Section 25 F of 'the I.D. Act'.

24. However, the petitioner has not led any cogent evidence on record to prove the violation of the provisions of Sections 25G and 25H of 'the I.D. Act'. Chet Ram PW2 has stated that the Kamla Devi, who was working in Sundernagar Working Plan, was converted to daily wage worker. Shri Vinod Kumar Aggarwa RW1 has also stated that Kamla Devi was engaged as part-time worker in Working Plan Division Sunder Nagar and she was converted to daily wage worker vide letter/order Ext.P1, however, perusal of Ext.P1 would show that Kamla Devi was engaged in August 1998 whereas the petitioner, admittedly, was engaged in the year 1999, more precisely on 5.10.1999, therefore, Kamla Devi was senior to the petitioner. The petitioner has not led any other evidence on record to prove that any workman, engaged by the respondents after her engagement, was retained in service at the time of her termination or any other person was employed by the respondents after her termination, therefore, contravention of the provisions of Sections 25G and 25H of 'the I.D. Act' has not been proved on record.

25. Thus, the petitioner has been able to prove the violation of Section 25F of 'the I.D. Act'.

26. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal 2014 7 SCC 177** in para nos. 23 to 26 has held as under:—

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In Man Singh (supra) which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.

27. This judgment was followed by the Hon'ble Court in **DEPUTY EXECUTIVE ENGINEER V/S KUBERBHAI KANJIBHAI AIR 2019 SC 517.**

28. Thus, in view of law laid down by the Hon'ble Supreme Court in the aforesaid cases where the termination of daily wage worker is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

29. In the case in hand it has not been established on record that the respondents resorted to unfair labour practices or violated the principle of 'last come first go' and therefore the petitioner is entitled to compensation instead of reinstatement.

30. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd.'s case supra**, keeping in view the fact that the petitioner therein, who was engaged as lineman, had worked for substantial period with the BSNL, had awarded compensation of Rs.3 lakh to him. In the case in hand, the petitioner had also worked with the respondents continuously from 5.10.1999 to 31.3.2007, i.e. for about 7½ years as part-time sweeper, therefore, taking into consideration the entire facts and circumstances of the case, I am of the considered view that it would be just, proper and reasonable to award a sum of Rs. 3 lakhs as compensation to the petitioner. Hence, this issue no.1 is partly decided in favour of the petitioner and is answered as such.

#### Issue No.2

31. In view of returned findings of issue No. 1, the petition is maintainable. Hence this issues is decided against the respondents and is answered in negative.

#### Issue No.3

32. Hon'ble Supreme Court in **Prabhakar Vs. Joint Director Sericulture Department and others 2015 (15) SCC 1** has held that no period of limitation is prescribed under 'the I.D. Act' for making reference under Section 10(1) of 'the I.D. Act' but if the dispute is raised after a long period, it is to be seen whether such a dispute still exists and if the court finds that the dispute exists, it is open for the court to take the aspect of delay into consideration and mould the relief and grant reinstatement without back wages or lesser back wages or compensation instead of reinstatement.

33. In the case in hand, in view of my findings on issue No.1 the dispute between the parties still existed and the claim of the petitioner was not very stale and therefore in view of the law and order of Hon'ble Supreme Court in the above said case petition is not bad on account of delay and laches. Hence this issue is decided against the respondents and is answered in negative.

#### RELIEF

34. In view of my returned findings on issue No. 1 above, the claim petition is partly allowed and a sum of Rs. 3 lakh (Rupees three lakhs only) is awarded as compensation to the petitioner for illegal termination her services by the respondents. The respondents shall pay the said compensation within period of two months, failing which the respondents shall pay interest @ 12% interest per annum on compensation amount from the date of the award till realization of the amount. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

35. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 26<sup>th</sup> day of September, 2023

Sd/-  
(NARESH KUMAR)  
Presiding Judge,  
Labour Court-cum-Industrial Tribunal,  
Kangra at Dharamshala, H.P.

**IN THE COURT OF NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)****(CAMP AT MANDI)**

Ref. No. : 34/2022  
Date of Institution : 05.3.2022  
Date of Decision : 28.9.2023

Shri Sanjiv Kumar s/o Late Shri Ram Sharan, r/o Village Salah Chowk, Sunder Nagar, District Mandi, H.P. *Petitioner.*

*Versus*

The Employer, M/s Kuldip Chand & Sons Petrol Pump, Opposite Chinar Hotel, Salah, Sunder Nagar, District Mandi, H.P. *Respondent.*

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the petitioner : Sh. R.S. Rana, Ld. Advocate  
For the respondent : Sh. Bhupinder Sharma, Ld. Advocate

**AWARD**

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') for adjudication:—

“Whether termination of the services of Shri Sanjiv Kumar s/o Late Shri Ram Sharan, r/o Village Salah Chowk, Sunder Nagar, District Mandi, H.P. during April, 2019 by the employer, M/S Kuldip Chand & Sons Petrol Pump, Opposite Chinar Hotel, Salah, Sunder Nagar, District Mandi, H.P. as alleged by workman, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. The case is listed today for appearance of the petitioner. Petitioner Sanjiv Kumar has appeared court and vide his separate statement stated that he has settled the dispute with the respondent and as per settlement he has received payees account Cheque No.514572 dated 6.9.2023 for a sum of Rs.2,23,772/- from the respondent as full and final settlement and nothing remains due to him from the respondent.

4. Therefore, in view of statement of the petitioner, the claim petition is allowed being compromised as per statement of the petitioner. The reference is answered accordingly.

5. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 28<sup>th</sup> day of September, 2023

Sd/-  
(NARESH KUMAR)  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.,*  
*(Camp at Mandi).*

**IN THE COURT OF NARESH KUMAR, PRESIDING JUDGE, LABOUR COURT-CUM-  
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)  
(CAMP AT MANDI)**

Ref. No. : 78/2018  
Date of Institution : 23.7.2018  
Date of Decision : 29.9.2023

Mr. Ved Ram s/o Shri Mani Ram, r/o Village Gohi, Post Office Nagwani, Tehsil Aut,  
District Mandi, H.P. Petitioner.

*Versus*

1. The Vice Chancellor/Registrar, Dr. Y.S. Parmar University of Horticulture & Forestry,  
Nauni (Solan), District Solan, H.P.

2. The Associate Director (R&E), Dr. Y. S. Parmar University of Horticulture &  
Forestry, Regional Horticulture Research and Training Station, Bajaura, District Kullu, H.P.  
Respondents.

**Reference under Section 10 (1) of the Industrial Disputes Act, 1947**

For the petitioner : Sh. Rajat Chaudhary, Ld. Adv.  
For the respondent(s) : Sh. Munish Kumar, Ld. Adv.

**AWARD**

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter in short is referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the breaks given in the services of Mr. Ved Ram s/o Sh. Mani Ram r/o Village Gohi, Post Office Nagwani, Tehsil Aut, Distt. Mandi, H.P. during the period 1/7/2002 to 14/9/2012 and finally terminated services from 1/11/2015 as alleged by the workmen by the (1) The Chancellor/Registrar, Dr. Y.S. Parmar University of Horticulture & Forestry, Nauni

(Solan), Distt. Solan, H.P. (2) The Associate Director (R&E), Dr. Y.S. Parmar University of Horticulture & Forestry, Regional Horticulture Research and Training Station, Bajaura, Distt. Kullu, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as daily wage labourer by the respondents on muster roll in the year 2000. He intermittently worked under the respondent No.2 upto the year 2015. The respondent No.2 initially engaged about 30 workmen including him in two spells for less than 89 days and this practice continued upto the year 2015. The respondent No.2 had given fictional breaks in his service so that he could not complete 240 days in a calendar year for the purpose of "continuous service" under Section 25-B of 'the I.D.Act' that too without any instructions from the respondent No.1 or from the State Government. During the period between 2000 to 2015, the respondents had not made any correspondence with him nor any notice was ever issued to him to prove that he had left or abandoned the job on his own. The respondents had neither issued any appointment letter to him at the time of his engagement nor the terms and conditions were settled with him for his engagement as per availability of the work and funds. The respondent No.2 finally terminated his services on 1.11.2015 without issuing notice/charge-sheet to him nor any inquiry was conducted nor retrenchment compensation was paid to him and thus his termination without complying with the provisions of Section 25-F of 'the I.D.Act' is null and void ab-initio. Not only this, the principle of 'last come first go' has been violated by the department as the persons junior to him namely S/Sh. Om Chand, Uttam Chand, Kanta Devi, Bal Krishan, Budhi Singh, Luddar Mani and Shiv Chand have been retained by the respondents continuously by ignoring his seniority in violation of the provisions of Section 25-G of 'the I.D.Act'. He has also come to know from the reliable resources that after termination of his services, the work earlier assigned to him, has been assigned to the contractor and services of some of the workmen have transferred to the contractor without any written order w.e.f. 1.11.2015. After his termination fresh hands have also been appointed by the department without giving an opportunity to him for re-engagement in contravention of the provisions of Section 25-H of 'the I.D.Act'. He was not gainfully employed anywhere from the date of his illegal termination i.e. 1.11.2015. It has thus been prayed that the illegal fictional breaks in his service from 2000 to 2015 be condoned for regularization of his services and his final termination order dated 1.11.2015 be set aside and the respondents be directed to reinstate him with full back wages, seniority, continuity in service and other consequential benefits in service. Hence this petition.

4. The petition has been resisted by the respondents by filing reply taking preliminary objections qua maintainability, estoppel and non-joinder of necessary party. On merits, after denying other allegations, it has been averred that the petitioner was engaged as per the Standing Instructions dated 5.12.2001 implemented w.e.f. 1.1.2002. As per instructions, a labourer was engaged on contractual basis to do manual work on seasonal basis by needy departments/research station of the University at fixed wages for a specific spell of 89 days whereafter his services were automatically terminated in accordance with terms and conditions of his engagement. The workmen could work for two spells after a break of atleast 15 days in a year and no seniority list was maintained. It has been denied that the fictional breaks were given so that the petitioner could not complete 240 days in a calendar year for the purpose of "continuous service" under Section 25-B of 'the I.D.Act'. It has been averred that the Director, Research of respondent had floated tenders for outsourcing the unskilled labourers services w.e.f. 1.5.2013 and the contract was awarded to M/s Shimla Cleanways, Sahibu Niwas, New Shimla, H.P. Thereafter contract for outsourcing the services of labourer w.e.f. 2015 to 31.3.2018 was awarded to M/s Rainbow Enterprises, Hemant Lodge, Mashobra, 2nd, Tehsil and District Shimla, H.P. The petitioner did not report for the work

to the contractor after the year 2012 and had left the job at his own volition. The engagement of the petitioner was regulated as per the Standing Instructions as such there was no need to issue notice to him. The Standing Instructions were replaced by the policy of outsource for engagement of the contractual labourers w.e.f. 1.5.2013. All the labourers were engaged on fixed salary on contractual basis for 89 days in one spell and two spells in a year after break of 15 days. It has been denied that the persons junior to the petitioner were engaged after termination of the services of the petitioner from time to time. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the applicant, the averments made in the petition have been re-affirmed after refuting those of the reply contrary to the averments made in the claim petition.

6. On the pleadings of the parties following issues were framed for determination on 16.3.2021:—

1. Whether the breaks given in service of the petitioner w.e.f. 01-07-2002 to 14-09-2012 and its final termination on 01-11-2015 by respondents is/was illegal and unjustified, as alleged? ... OPP.
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ... OPP.
3. Whether the claim petition is not maintainable, as alleged? ... OPR.
4. Whether the petitioner is estopped by his act, conduct and acquiescence to file the claim petition, as alleged? ... OPR.

Relief.

7. The applicant was called upon to lead evidence. The applicant appeared as PW1 and closed evidence. On the other hand the respondents have examined Dr. Bhupinder Singh Thakur, as RW1 and closed the evidence.

8. I have heard the Learned counsel for both the parties and gone through the case file carefully.

9. For the reasons to be recorded hereinafter, while discussing the aforesaid issues, my findings on the above issues are as under:—

Issue No.1	:	Yes
Issue No.2	:	As per relief clause
Issue No.3	:	No
Issue No.4	:	No
Relief	:	The petition is allowed per operative part of Award.

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**REASONS FOR FINDINGS**

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**ISSUES No.1 & 2**

10. Both these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

11. The learned counsel for the petitioner vehemently contended that the respondent No.1 had engaged labourers like petitioner in its various research stations including one of its College of Horticulture and Forestry, Neri initially for 89 days and they worked with the said college intermittently with fictional breaks upto the year 2013 whereafter the services of those labourers were transferred to M/s Shimla Cleanways and the contractor illegally terminated their services and on the industrial dispute raised by the labourers, references were made by appropriate Government to this court and the respondents have resisted the claim of the labourers on the grounds similar to the grounds taken in the present petition and this court allowed all the petitions filed by the labourers and order passed in fourteen references were challenged before the Hon'ble High Court and Hon'ble High Court in **Dean, College of Horticulture and Forestry, Neri and another vs. Shri Rajeev Kumar and others** 2019 (1) LLJ 181 has held that the respondent has terminated the services of all the workers without notices or retrenchment compensation and they were engaged for 89 days and fictional breaks were given to ensure that they could not complete 240 days in a calendar year and upheld the order passed by this court that but for the fictional breaks granted to the respondent workmen, they would have completed "continuous service" as envisaged under Section 25-B of 'the I.D. Act' which proves that the workmen were given fictional breaks so that they could not complete 240 days and also upheld the order for re-engagement of the workmen. The respondents have challenged the order passed by the Hon'ble High Court in those writ petitions before Hon'ble Supreme Court, but the Hon'ble Supreme Court had dismissed the same and therefore in view of law laid down in abovesaid case, the plea of the respondents that the petitioner was engaged for 89 days as per the Standing Instructions is not tenable. Even otherwise Hon'ble Supreme Court in **Bhuvnesh Kumar Dewedi Vs. Hindalco Industries** 2014 LLR 673 has held that the artificial breaks in service every year by reappointing the employee on the same post amounts to 'unfair labour practice' which is not permissible under law. Hence the petition filed by the petitioner be allowed and order of termination of the services of the petitioner be set aside and the petitioner be ordered to be re-engaged with all service benefits.

12. On the other hand, the learned counsel for respondent submitted that the petitioner was engaged on contractual basis to do manual seasonal work for specific 89 days and he has not completed 240 days in any calendar year and he himself left the job, therefore, he is not entitled any relief as claimed by him and as such petition filed by the petitioner be dismissed.

13. The Hon'ble High Court in **Dean, College of Horticulture and Forestry, Neri's case supra** has held as under:—

“[10] It is a matter of record that the respondent-workman served the petitioners as an unskilled labourer from the year 2006 to 09.09.2014 when his services were terminated without any notice or retrenchment compensation. Record also demonstrates that initially the engagement of the workman was purportedly made for 89 days and fictional breaks were given to ensure that the respondent-workman did not complete 240 days in a calendar year. It is also evident from the record that respondent was initially engaged on 17.07.2006 and he continued to work with the petitioners till 20.07.2012, whereafter he was engaged from 15.07.2013 to 30.09.2014 for different number of working days through outsourcing agency of manpower, as per the Outsource Policy introduced w.e.f. April 2013. However, there is no documentary evidence suggesting that at any stage the services of the



respondent-workman were placed at the disposal of M/S Shimla Cleanways by the petitioners.

[11] It is apparent from the record that there is violation of Section 25-G of the Industrial Disputes Act, 1947 as workmen, namely, Asha Devi and Tara Chand, who were engaged on 13.07.2009 were permitted to complete more than 240 days in the years 2010, 2011, 2012 and also 2013, whereas on account of intermittent breaks given to the respondent-workman, he was not permitted to complete 240 days in a calendar year. Therefore, the termination of services of the respondent-workman in the year 2014 without complying with the provisions of Section 25-F amounts to violation of the provisions of the Industrial Disputes Act, 1947. It has also been rightly held by learned Labour Court that but for the fictional breaks granted to the respondent-workman, he would have completed "continuous service" in a year as envisaged under Section 25-B of the Industrial Disputes Act, 1947. This also proves that the petitioners gave deliberate breaks to the respondent-workman so that he could not complete 240 days in a calendar year. The factum of disengaging the respondent-workman periodically and retaining juniors also stands borne out from the record. In this view of the matter, we do not find any infirmity with the findings returned by the learned Labour Court directing reengagement of the services of the respondent-workman forthwith alongwith seniority and continuity in service.

[12] However, we may add that as far as the direction given by learned Tribunal to regularize services of the respondent-workman is concerned, the same is beyond the jurisdiction of the learned Labour Court. We say so for the reason that where a Reference is made for the purpose of adjudication to learned Labour Court, then the Court has to decide the said Reference and it cannot go beyond the scope of the Reference. Therefore, the findings returned by learned Labour Court that respondent-workman would be entitled to be regularized are set aside and the award passed by the learned Labour Court is modified to this extent.

[13] In view of discussion held hereinabove, these writ petitions are dismissed by modifying the award passed by the learned Labour Court as indicated herein above with a direction to the petitioners to re-engage the respondent/workman forthwith alongwith seniority and continuity in service, as directed by learned Labour Court, on the same terms and conditions on which the respondent-workman was working as on the date of his termination."

14. In the case in hand, the respondents have not disputed the fact that the petitioner was engaged as labourer in Dr. Y.S. Parmar University, Horticulture and Forestry, Regional Horticulture Research and Training Station, Bajaura, District Kullu, H.P., but the plea of the respondents is that the petitioner was engaged on contractual basis to do manual work on seasonal basis at fixed wages for specific spell of 89 days as per the Standing Instructions issued by the respondent No.1. As per Standing Instructions workman could work for two spells after break of atleast 15 days and that the petitioner had not worked for 240 days in any calendar year and he himself left the job in the year 2012, therefore, he is not entitled to any relief.

15. The respondent have placed on the record mandays chart Ext. RW1/W of the petitioner perusal of which show that the petitioner was engaged for 89 days in the year 2002, 136 days in the year 2003, 177 days in the year 2004, 82 days in the year 2005, 176 days in year 2006, 162 days in the year 2007, 129 days in the year 2008, 88 days in the year 2009, 129 days in the year 2011 and 89 days in the year 2012 and as per note appended on the foot of mandays chart, policy regarding outsourcing of labour on contractual basis was opted which was applicable w.e.f. 1.5.2013. However, no document has been placed on record to prove that the services of the petitioner and other workers were transferred to M/s Shimla Cleanways on outsource basis by the respondent at any point of time.

16. The petitioner Ved Ram, in support of his case, appeared as PW1 and has filed affidavit Ext.PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the claim petition. He categorically stated that he was engaged by the respondent department as daily wage labourer on muster roll in the year 2000 and he worked intermittently upto the year 2015 and the respondents had given fictional breaks in his service and did not allow him to complete 240 days in any year. He was finally terminated on 1.11.2015 without issuing any notice to him or payment of retrenchment compensation. The principle of 'last come first go' was also violated by the department as the persons juniors to him namely S/Sh. Om Chand, Uttam Chand, Kanta Devi, Bal Krishan, Budhi Singh, Luddar Mani and Shiv Chand were retained by ignoring his seniority. In his cross-examination he has admitted that no appointment letter was issued to him at the time of his engagement. He has also admitted that as per mandays chart he did not complete 240 days in any year. He however denied that at the time of his engagement he had admitted that he would not lay claim for regularization. He has admitted that he was engaged for seasonal work and added that they used to disengage him after 89 days. He has denied that he left the job on his own. He has further stated that he worked from the year 2000 upto November 2015.

17. On the other hand the respondents have examined respondent No.2 Dr. Bhupinder Singh Thakur as RW1. He has filed affidavit Ext.RW1/A in examination-in-chief wherein he has affirmed the averments made in the reply. The sum and substance of his evidence is that petitioner was engaged as labourer on contractual basis from July 2002 upto 2012 at Regional Horticultural Research Station (now renamed as Regional Horticultural Research and Training Station), Bajoura, District Kullu, H.P. As per the Standing Instructions, no worker could be engaged by the university for perennial work continuously beyond the period of 89 days and labourers were engaged under adhoc projects going on in the university at the relevant time at fixed wages for specific spell whereafter their services were automatically terminated in accordance with the terms and conditions of engagement letter. The university introduced policy of outsourcing of unskilled labour through Government registered contractor from 1.5.2013. The petitioner worked in different spells from 2002 to 2012 as per Standing Instructions and he left the job on his own after 14.9.2012. He has also tendered documents i.e. copy of standing instructions Ext. RW1/B, copy of another standing orders Ext.RW1/C, copy of notification Ext.RW1/D, copy of notification dated 13.8.2014 Ext.RW1/E, notification dated 31.3.2015 Ext.RW1/F, copy of registration licence dated 18.9.2015 Ext. RW1/G, copy of seniority list dated 31.12.2000 Ext. RW1/H, seniority list dated Ext. RW1/I, another seniority list dated 31.12.2002 Ext. RW1/J, seniority list dated 31.12.2003 Ext. RW1/K, seniority list dated 31.12.2005 Ext.RW1/L, seniority list dated 31.7.2007 Ext. RW1/M, seniority list dated 31.12.2008 Ext. RW1/O, seniority list dated 31.12.2009 Ext. RW1/P, seniority list dated 31.12.2010 Ext. RW1/Q, seniority list dated 31.12.2011 Ext. RW1/R, seniority list dated 31.12.2012 Ext. RW1/S, seniority list dated 31.12.2013 Ext. RW1/T, seniority list dated 31.12.2014 Ext. RW1/U, seniority list dated 31.12.2015 Ext. RW1/V, copy of mandays chart Ext. RW1/W, copy of mandays chart of Shri Om Chand s/o Shri Biru Ram Ext. RW1/X, copy of mandays chart of Shri Om Chand s/o Shri Lot Ram Ext. RW1/Y. In his cross-examination he has admitted that the name of the petitioner does not find mention in the seniority lists Ext.RW1/H to RW1/V. He has admitted that petitioner was engaged on muster roll basis for 89 days in the year 2002. Terms and conditions of services of the petitioner were settled at the time of his engagement. He did not know as to whether any appointment letter specifying the terms and conditions of the engagement was issued to the petitioner at the time of his engagement as he has joined in the year 2019. He has admitted that petitioner and other workmen were given break for 15 days on completion of 89 days. He has admitted that engagement and re-engagement of the petitioner for 89 days with breaks continued till the year 2012. He has denied that the Instructions Ext.RW1/B are not applicable to the petitioner. He could not say that Bhushan Kumar written at serial No.265 in the seniority list Ext.RW1/I had worked continuously and no breaks after 89 days were given to him. The petitioner joined the project in the year 2012 and worked for three years. Letter in this regard was issued to him. He has denied that no such letter was issued to the petitioner. He has denied that

petitioner worked on 89 days format till the year 2015 and thereafter his services were terminated without following the procedure. He did not know that no notice under Section 9A of 'the I.D. Act' was issued to the petitioner for change of service conditions. He has admitted that the Award Ext.PA was passed by this court on 25.2.2022. He has admitted that the respondent had full year work available at the time when breaks were given to the workmen including the petitioner. He has denied that the breaks were given to the petitioner intentionally so that he could not complete 240 days in any calendar year and added that they had followed instructions of Government of Himachal Pradesh. No notice was given to the petitioner in the year 2015 as he himself had left the job after completion of the work. He has denied that petitioner never worked in any the project. He denied that respondent university involved itself in unfair labour practices by giving breaks after 89 days to the petitioner and others. He did not know that 15 workmen of Neri campus were re-engaged as per Award of this court which have attained finality. He denied that from the year 2002 to 2013 workmen junior to the petitioner were retained.

18. It is evident from the resume of the the evidence of both the parties discussed supra that the petitioner Ved Ram PW1 has stated that he had worked with the respondent No.2 intermittently from the year 2000 to November 2015 and in his cross-examination has again stated so. On the other hand, Dr. Bhupinder Singh Thakur (RW1) has stated that petitioner worked with the respondent No.2 from year 2002 to 2012 in different spells and he has left the job on 14.9.2012 on his own, however, in his cross-examination he has admitted that petitioner was engaged on muster roll basis for 89 days from the year 2002. He (RW1) has further stated that the petitioner joined the project in the year 2012 which was for three years and letter with regard to the same was also issued to the petitioner and he has denied that the petitioner worked on 89 days format till 2015 and thereafter his services were terminated without following the procedure which clearly goes to show that the petitioner had not left the job in the year 2012 as claimed by the respondents; rather he had worked with the respondents till the year 2015. The respondents have not produced on record any documents to prove that the petitioner had worked in any project from the year 2012 nor the letter allegedly issued to the petitioner has been produced on record, but the statement of RW1 to this effect clearly goes to show that petitioner worked with the respondents till the year 2015.

19. The petitioner has claimed that he had worked with the respondents from the year 2000 and his services were terminated from 01.11.2015, however, he, as per mandays chart Ext.RW1/W, was engaged from 01.07.2002 and the petitioner himself has suggested to RW1 that he (petitioner) was engaged on muster roll basis for 89 days in the year 2002, which was admitted by him, therefore, it can safely be concluded that petitioner had worked with the respondents from 1.7.2002 upto the year 2015 and his services were terminated by the respondents from 1.11.2015. The respondents admittedly had not issued any notice to the petitioner before terminating his services and therefore, it is also established on record that the respondents terminated the services of the petitioner without issuing notice to him.

20. Dr. Bhupinder Singh Thakur (RW1), in his cross-examination, has also admitted that the respondents had full year work available at the time when breaks were given to the workmen including the petitioner which clearly proves on record that the fictional breaks in service of the petitioner were given intentionally so that the petitioner could not complete 240 days in a calendar year. The respondents have claimed that they have given breaks and/or engaged the petitioner and other workmen as per Standing Instructions issued by the respondent No.1, however, these Standing Instructions did not stand the test of judicial scrutiny as Hon'ble High Court in **Dean, College of Horticulture and Forestry, Neri and another's case supra** has held that the fictional breaks for 89 days were given to ensure that the workmen could not complete 240 days in a calendar year.

21. Even otherwise, Hon'ble Supreme Court in **BHUVNESH KUMAR DWIVEDI's** case supra has held that the artificial breaks in service every year by reappointing the employee on the same post amounts to 'unfair labour practice'. It was held as under:

[23] Very interestingly, the periods of service extends to close to 6 years save the artificial breaks made by the respondent with an oblique motive so as to retain the appellant as a temporary worker and deprive the appellant of his statutory right of permanent worker status. The aforesaid conduct of the respondent perpetuates 'unfair labour practice' as defined under Section 2(ra) of the I.D. Act, which is not permissible in view of Sections 25T and 25U of the I.D. Act read with entry at Serial No. 10 in the Vth Schedule to the I.D. Act regarding unfair labour practices. Section 2 (ra) reads thus:

"unfair labour practice" means any of the practices mentioned in the Vth Schedule.

Further, Entry 10 of Vth Schedule reads as under:

"5. To discharge or dismiss workmen-

(10). To employ workmen as 'badlis', casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen."

[24] The respondent, in order to mitigate its conduct towards the appellant has claimed that the appellant was appointed solely on contract basis, and his service has been terminated in the manner permissible under Section 2 (oo) (bb) of the I.D. Act. However, we shall not accept this contention of the respondent for the following reasons:—

- (i) Firstly, the respondent has not produced any material evidence on record before the Labour Court to prove that it meets all the required criteria under the Contract Labour (Regulation and Abolition) Act, 1970, to be eligible to employ employees on contractual basis which includes license number etc.
- (ii) Secondly, the respondent could not produce any material evidence on record before the Labour Court to show that the appellant was employed for any particular project(s) on the completion of which his service has been terminated through non-renewal of his contract of employment.

[25] Therefore, we deem it fit to construe that the appellant has rendered continuous service for six continuous years (save the artificially imposed break) as provided under Section 25B of the I.D. Act and can therefore be subjected to retrenchment only through the procedure mentioned in the I.D. Act or the state Act in parimateria.

[26] Therefore, we answer the point No. 2 in favour of the appellant holding that the Labour Court was correct in holding that the action of the respondent/employer is a clear case of retrenchment of the appellant, which action requires to comply with the mandatory requirement of the provision of Section 6-N of the U.P. I.D. Act. Undisputedly, the same has not been complied with and therefore, the order of retrenchment has rendered void ab initio in law.

## Answer to Point No.3

[27] Having answered point No. 2 in favour of the appellant, we also answer the point No. 3 in his favour since we construe that the appellant is a worker of the respondent Company providing continuous service for 6 years except for the artificial breaks imposed upon him with an oblique motive by the respondent Company. We hold that the termination of service of the appellant amounts to "retrenchment" in the light of the principle laid down by three judge bench decision of this Court in State Bank of India v. Shri N. Sundara Money, 1976 AIR(SC) 1111 and attracts the provision of S. 6-N of the U.P. I.D. Act. The case mentioned above illustrates the elements which constitute retrenchment. The relevant paragraphs read as under:

"9. A break-down of Section 2(oo) unmistakably expands the semantics of retrenchment. 'Termination...for any reason whatsoever' are the keywords. Whatever the reason, every termination spells retrenchment. So the sole question is has the employee's service been terminated? Verbal apparel apart, the substance is decisive. A termination takes place where a term expires either by the active step of the master or the running out of the stipulated term. To protect the weak against the strong this policy of comprehensive definition has been effectuated. Termination embraces not merely the act of termination by the employer, but the fact of termination howsoever produced. May be, the present may be a hard case, but we can visualise abuses by employers, by suitable verbal devices, circumventing the armour of Section 25F and Section 2(00). Without speculating on possibilities, we may agree that 'retrenchment' is no longer terra incognita but area covered by an expansive definition. It means 'to end, conclude, cease'. In the present case the employment ceased, concluded, ended on the expiration of nine days automatically maybe, but cessation all the same. That to write into the order of appointment the date of termination confers no moksha from Section 25F(b) is inferable from the proviso to Section 25F(1). True, the section speaks of retrenchment by the employer and it is urged that some act of volition by the employer to bring about the termination is essential to attract Section 25F and automatic extinguishment of service by effluxion of time cannot be sufficient. An English case R.V. Secretary of State, 1973 2 ALLER 103; was relied on, where Lord Denning, MR observed:

I think the word 'terminate' or 'termination' is by itself ambiguous. It can refer to either of two things-either to termination by notice or termination by effluxion of time It is often used in that dual sense in landlord and tenant and in master and servant cases. But there are several indications in this paragraph to show that it refers here only to termination by notice.

Buckley L. J, concurred and said:

In my judgment the words are not capable of bearing that meaning. As counsel for the Secretary of State has pointed out, the verb 'terminate' can be used either transitively or intransitively. A contract may be said to terminate when it comes to an end by effluxion of time, or it may be said to be terminated when it is determined at notice or otherwise by some act of one of the parties. Here in my judgment the word 'terminated' is used in this passage in para 190 in the transitive sense, and it postulates some act by somebody which is to bring the appointment to an end, and is not applicable to a case in which the appointment comes to an end merely by effluxion of time Words of multiple import have to be winnowed judicially to suit the social philosophy of the statute. So screened, we hold that the transitive and intransitive senses are covered in the current context. Moreover, an

employer terminates employment not merely by passing an order as the service runs. He can do so by writing a composite order one giving employment and the other ending or limiting it. A separate, subsequent determination is not the sole magnetic pull of the provision. A preemptive provision to terminate is struck by the same vice as the post-appointment termination. Dexterity of diction cannot defeat the articulated conscience of the provision."

[28] Section 6N of the U.P. I.D. Act which is in parimateria to s. 25N of the I.D. Act reads thus:

"[6-N. Condition precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of the notice;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies the date of termination of service;

- b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and
- c) notice in the prescribed manner is served on the State Government]"

Evidently, the above said mandatory procedure has not been followed in the present case. Further, it has been held by this Court in the case of Anoop Sharma v. Executive Engineer, Public Health Division No. 1 Panipat, 2010 5 SCC 497 as under:

"13 .. no workman employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until the conditions enumerated in Clauses (a) and (b) of Section 25F of the Act are satisfied. In terms of Clause (a), the employer is required to give to the workman one month's notice in writing indicating the reasons for retrenchment or pay him wages in lieu of the notice. Clause (b) casts a duty upon the employer to pay to the workman at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months. This Court has repeatedly held that Section 25F(a) and (b) of the Act is mandatory and non-compliance thereof renders the retrenchment of an employee nullity - State of Bombay v. Hospital Mazdoor Sabha, 1960 AIR(SC) 610, Bombay Union of Journalists v. State of Bombay, 1964 6 SCR 22, State Bank of India v. N. Sundara Money, 1976 1 SCC 822, Santosh Gupta v. State Bank of Patiala, 1980 3 SCC 340, Mohan Lal v. Management of M/s. Bharat Electronics Ltd., 1981 3 SCC 225, L. Robert D Souza v. Executive Engineer, Southern Railway, 1982 1 SCC 645, Surendra Kumar Verma v. Industrial Tribunal, 1980 4 SCC 443, Gammon India Ltd. v. Niranjana Das, 1984 1 SCC 509, Gurmail Singh v. State of Punjab, 1991 1 SCC 189 and Pramod Jha v. State of Bihar, 2003 4 SCC 619. This Court has used different expressions for describing the consequence of terminating a workman's service/employment/ engagement by way of retrenchment without complying with the mandate of Section 25F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometimes as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an

employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25F(a) and (b) has the effect of rendering the action of the employer as nullity and the employee is entitled to continue in employment as if his service was not terminated.

Therefore, in the light of the law provided in the I.D. Act and its state counterpart through the U.P. I.D. Act and also on the basis of the legal principle laid down by this Court, we hold that the termination of service of the appellant was illegal and void ab initio.

[29] Therefore, the Labour Court was correct on factual evidence on record and legal principles laid down by this Court in catena of cases in holding that the appellant is entitled to reinstatement with all consequential benefits. Therefore, we set aside the Order of the High Court and uphold the order of the Labour Court by holding that the appellant is entitled to reinstatement in the respondent-Company.

22. In the case in hand, Dr. Bhupinder Singh Thakur, RW1, in his cross-examination, has admitted that the respondents had full year work available at the time when breaks were given to the workmen including the petitioner which in turn proves that the breaks in service of the petitioner were given by the respondent deliberately so that he could not complete 240 days in a calendar year and to deprive him of his statutory right of permanent worker status which conduct of the respondents, in view of law and order of Hon'ble Supreme Court in the above said case, amounts to "unfair labour practice" and petitioner shall be deemed to be in continuous service as per provisions of Section 25-B of 'the I.D.Act'. Hence he could have been retrenched only as per the provisions of Section 25-F of 'the I.D.Act', however, the respondents neither issued any notice to the petitioner before terminating his services nor one month's wages in lieu of termination of his services were paid to him nor retrenchment compensation was paid to him and therefore it can safely be concluded that the respondents have terminating the services of the petitioner in contravention of the provisions of Section 25-F of 'the I.D. Act'.

23. The petitioner has also alleged that the respondents have violated the principle of 'last come first go' as the person juniors to the petitioner namely S/Sh. Om Chand, Uttam Chand, Kanta Devi, Bal Krishan, Budhi Singh, Luddar Mani and Shiv Chand have been retained by the respondents in service continuously by ignoring his seniority and also violated the provisions of Section 25-H of 'the I.D.Act' by engaging fresh hands after termination of his services.

24. The petitioner has not led any cogent evidence on record to prove that the aforesaid persons were junior to him and they were retained continuously in service by the respondents, however, during course of the arguments of the learned Counsel for the petitioner submitted that one Diwan Chand mentioned at serial no.249 in the seniority list for the year 2005 Ext.RW1/L was engaged in the year 2004 and the respondents have also engaged Shanti Devi, Shakuntla and Babu Ram mentioned at serial Nos. 168,169 and 170 in the seniority list of 2007 Ext. RW1/N in the year 2007 and they were retained continuously in the service by the respondents as is evident from the seniority lists from the year 2005 Ext.RW1/L to the year 2014 Ext.RW1/V and thus the respondents have violated the principle of Section 25 G of 'the I.D.Act',

25. There is no substance in the contention of the learned counsel for the petitioner. The perusal of the seniority lists Ext.RW1/L to Ext.RW1/V would show that Diwan Chand, Shanti Devi, Shakuntla and Babu Ram were engaged on compassionate ground and therefore they cannot be said to have been engaged in contravention of the provisions of Section 25G of 'the I.D.Act' and no law to the contrary is cited at bar. Even otherwise, the petitioner has not pleaded in his claim petition that the aforesaid four daily wage workers were engaged in contravention of the provisions of Section 25 G of 'the I.D.Act' and the petitioner has not led any cogent evidence on record to prove that the respondents have violated the principle of 'last come first go'. Hence the petitioner has failed to prove the violation of Section 25 G of 'the I.D.Act'.

26. The petitioner has also not led any evidence on record that the respondents have engaged any fresh hand after termination of his services in the year 2015 and therefore the petitioner has failed to prove the contravention of the provisions of Section 25-H the I.D.Act.

27. Thus the petitioner has been able to prove on the record that the respondents have terminated his service by resorting to unfair labour practice. Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal 2014 7 SCC 177** has held that where the termination of daily wage worker is found illegal because of procedural defect, namely in violation of [Section 25-F](#) of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

28. In the case in hand, the respondents, have terminated the services of the petitioner by resorting to the unfair labour practices and therefore the petitioner, in view of the law laid down by Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd' case supra**, shall be deemed to be in continuous service from the date of his initial engagement and the petitioner is entitled to reinstatement with all consequential benefits including seniority from the date of his illegal termination except back wages as he has not led any cogent evidence that he was not gainfully employed anywhere during the period of breaks and/or after his termination. Hence both these issues are decided in favour of the petitioner and are answered as such.

Issue No.3

29. In view of my findings on the issues No.1 and 2, the petition is maintainable. Hence this issue is decided against the respondents and is answered in negative.

Issue No.4

30. Neither any evidence has been led nor any arguments were addressed as to what conduct and conduct of the petitioner estopped him from filing of claim petition. Hence this issue is decided against the respondents and is answered in negative.

### *Relief*

31. In view of my findings returned on issues No.1 and 2 above, the claim petition is partly allowed. The breaks given in the service of the petitioner w.e.f. 01.07.2002 to 01.11.2015 are held illegal and unjustified and the petitioner shall be deemed to be in continuous service from w.e.f. 01.07.2002 and the respondents are directed to reinstate the petitioner forthwith with all consequential service benefits including seniority from the date of his initial engagement except back wages. In the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

32. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 29th day of September, 2023

Sd/-  
(NARESH KUMAR)  
*Presiding Judge,*  
*Labour Court-cum-Industrial Tribunal,*  
*Kangra at Dharamshala, H.P.,*  
*(Camp at Mandi).*



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**CHANGE OF NAME**

I, Rajesh Kumar s/o Ram Singh born on 17th June, 1980 Village Bir Jangal, P.O. Alampur, District Kangra have changed my name to Rajesh Kumar Bhatia *vide* affidavit dated 25 Oct., 2023 sworn before Executive Magistrate at Jasinghpur.

RAJESH KUMAR

*s/o Ram Singh*

*Village Bir Jangal, P.O. Alampur, District Kangra.*

